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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/660,785	09/13/2000	Benjamin E. Hansen	1692	7918

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EXAMINER

FOSTER, ROLAND G

ART UNIT PAPER NUMBER

2645

DATE MAILED: 02/27/2004

18

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/660,785

Applicant(s)

HANSEN ET AL.

Examiner

Roland G. Foster

Art Unit

2645

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 February 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-25.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Roland G. Foster
Primary Examiner
Art Unit: 2645

Continuation of 2. NOTE:

The proposed amendment canceling dependent claim 5 and moving the limitations from this claim into parent, independent claim 1 would not raise new issues. Applicant is incorrect in arguing that the limitations of claim 5 were not addressed. This limitations for this claim were addressed and rejected on pages 2-5 of the Office action, mailed on Dec. 17, 2003 as Paper No. 16 (hereafter the "last Office action"), as being anticipated by Norris et al. (U.S. Patent No. 5,805,587).

Applicant's proposed amendment introduced a new limitation into independent claims 11 and 23 that have not been previously considered and set forth and that therefore would require further search and/or consideration. Specifically regarding claim 11, applicant cancelled dependent claim 15 but failed to introduce all limitations from this cancelled claim into independent claim 11. For example, applicant did not introduce limitations directed to "performing an action include[ing] sending said telephone call to a voicemail system" as originally recited in claim 15. In addition, moving the limitations from cancelled but previously considered dependent claim 5 into all independent claims 1, 11 and 23 does not prevent new issues from being raised because claims 11 and 23 substantively differ from claim 1 (parent of dependent claim 5) as noted in the last Office action (Paper No. 16). Therefore, the proposed amendment to claims 11 and 23 would result in substantively new combinations of limitations not previously considered and set forth as consistent with applicant's initial choice of claim structure and content.

Applicant is incorrect in arguing that the examiner relied upon col. 5, lines 55-60 of Shtivelman et al. (U.S. Patent No. 6,259,692) when rejecting claim 15 in the last Office action. Instead, the examiner relied upon col. 5, lines 55-60 of Norris et al. (U.S. Patent No. 5,806,587) as discussed on pages 10 and 11 of the last Office action (Paper No. 16).